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**UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION OF  
SOUTHERN CALIFORNIA,  
*Plaintiff,*

v.

UNITED STATES IMMIGRATION  
AND CUSTOMS ENFORCEMENT,  
UNITED STATES DEPARTMENT  
OF HOMELAND SECURITY,

*Defendants.*

Case No. 2:22-CV-04760-SB-AFM

**DECLARATION OF LABONI HOQ  
IN SUPPORT OF PLAINTIFF'S  
OPPOSITION TO DEFENDANTS'  
MOTION FOR JUDGMENT ON  
THE PLEADINGS**

Hearing Date: August 8, 2023  
Hearing Time: 11:00 a.m.  
Courtroom: *Via Zoom*  
Honorable Shashi H. Kewalramani  
United States Magistrate Judge

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1 I, Laboni A. Hoq declare as follows:

2 1. I am counsel for Plaintiff ACLU of Southern California in the above-  
3 captioned matter. I submit this declaration in support of Plaintiff's Opposition to  
4 the Defendants' Motion for Judgment on the Pleadings. I have personal  
5 knowledge of the facts set forth below, and if called as a witness, I could and  
6 would competently testify thereto.

7 2. On April 29, 2022, Plaintiff submitted a Freedom of Information Act  
8 ("FOIA") Request to Defendants Department of Homeland Security ("DHS"), the  
9 DHS Office of Inspector General ("OIG"), and Immigration and Customs  
10 Enforcement ("ICE"). Attached hereto as Exhibit A is a true and correct copy of  
11 that FOIA Request.

12 3. On February 1, 2023, I participated with my co-counsel in a meet and  
13 confer video conference with Defendants' counsel Joseph Tursi. At that conference  
14 Plaintiff's counsel asked Defendants ICE and OIG to identify the search terms and  
15 locations they used to locate records response to the FOIA Request. Defendants  
16 responded by email that day with the information Plaintiff requested. Attached  
17 hereto as Exhibit B is a true and correct copy of Defendants' February 1, 2023  
18 email.

19 4. On February 14, 2023, I sent Defendants' counsel a letter which,  
20 among other things, responded to Defendants' February 1, 2023 email, and asked  
21 that ICE conduct an adequate search for Parts 4-9 of the FOIA Request ("Parts 4-  
22 9"). Attached hereto as Exhibit C is a true and correct copy of Plaintiff's February  
23 14, 2023 letter.

24 5. On February 24, 2023, Defendants' counsel Mr. Tursi responded to  
25 Plaintiff's February 14, 2023 letter, but failed to respond to Plaintiff's inquiry  
26 therein regarding the inadequacies of ICE's search for Parts 4-9. Attached hereto as  
27 Exhibit D is a true and correct copy of Defendants' February 24, 2023 letter.

28 6. On March 1, 2023, I sent Defendants' counsel a letter responding to

1 Defendants' February 24, 2023 letter, again asking ICE to address its search  
2 inadequacies regarding Parts 4-9. Attached hereto as Exhibit E is a true and  
3 correct copy of Plaintiff's March 2, 2023 letter.

4       7. On March 24, 2023, my co-counsel and I participated in a meet and  
5 confer video conference with Defendants' counsel Mr. Tursi on a number of issues  
6 regarding the adequacy of Defendants' searches and productions to date. At that  
7 conference Plaintiff's counsel followed up with Mr. Tursi about Plaintiff's  
8 February 14 and March 1, 2023 correspondence regarding ICE's failure to search  
9 for Parts 4-9. Mr. Tursi responded that he would follow up with ICE on the matter.

10     8. On March 29, 2023, Defendants' counsel Mr. Tursi sent me a letter  
11 following up on our discussion at the March 24, 2023 meet and confer video  
12 conference. Defendants took the position that that Parts 4-9 were too "vague" and  
13 "overbroad" to warrant a response, but invited Plaintiff to provide ICE with search  
14 terms and other search parameters to allow ICE to search for them. Attached hereto  
15 as Exhibit F is a true and correct copy of Defendants' March 29, 2023 letter.

16     9. On April 14, 2023, I sent Defendants' counsel a letter responding to  
17 Defendants' March 29, 2023 correspondence, demonstrating that Parts 4-9 were  
18 sufficiently reasonably described and not too "vague" and "overbroad." Plaintiff  
19 also provided ICE with search terms and locations to search for Parts 4-9, as  
20 Defendants invited it to do in its March 29, 2023 letter. Attached hereto as Exhibit  
21 G is a true and correct copy of Plaintiff's April 14, 2023 letter.

22     10. On May 12, 2023, my co-counsel and I participated in another meet  
23 and confer video conference with Defendants' counsel Jason Axe, in which  
24 Plaintiff's counsel raised various deficiencies with Defendants' FOIA searches,  
25 including ICE's failure to respond to Plaintiff's proposed search terms and  
26 locations for Parts 4-9. In the conference, Mr. Axe agreed to follow up with ICE  
27 about the status of any additional searches it would agree to conduct for Parts 4-9,  
28 including whether it would agree to the search parameters set forth in Plaintiff's

1 April 14, 2023 letter.

2       11. On May 16, 2023 Defendants' counsel Mr. Axe sent me an email  
3 regarding the status of ICE's searches for Parts 4-9, including ICE's response to  
4 the search terms and locations Plaintiff proposed in its April 14, 2023 letter.  
5 Among other things, ICE acknowledged "the issue regarding the delay by ICE in  
6 responding to your request for search terms," and provided an alternative set of  
7 search terms and locations. Attached hereto as Exhibit H is a true and correct copy  
8 of Defendants' May 16, 2023 email.

9       12. On May 18, 2023, my co-counsel and I participated in another meet  
10 and confer video conference with Defendants' counsel Jason Axe regarding the  
11 deficiencies with Defendants' proposed search terms and locations as to Parts 4-9.  
12 As memorialized in an email of the same day, among other things, Mr. Axe stated,  
13 "ICE is interested in Plaintiff's opinion as to additional terms and locations if  
14 Plaintiff believes the proposed terms would not yield any documents responsive to  
15 the request. Please send me proposed terms and locations that I can share with ICE  
16 for their review." Attached hereto as Exhibit I is a true and correct copy of  
17 Defendants' May 18, 2023 email.

18       13. On May 19, 2023, Defendants' counsel Mr. Axe sent me another  
19 email to update on the status of Defendants' additional searches for and production  
20 of records response to the FOIA Request. Among other things, Mr. Axe again  
21 committed to follow up with ICE about the status of additional searches for Parts  
22 4-9. Attached hereto as Exhibit J is a true and correct copy of Defendants' May 19,  
23 2023 email.

24       14. On May 19, 2023, I sent Defendants' counsel a letter responding to  
25 Defendants' emails of May 18 and 19. Attached hereto as Exhibit K is a true and  
26 correct copy of Plaintiff's May 19, 2023 letter.

27       15. On May 25, 2023, Defendants' counsel Mr. Axe sent me another  
28 email regarding Defendants' additional searches for records response to the FOIA

1 Request, including as to Parts 4-9. Among other things, Mr. Axe represented that  
2 that ICE could potentially use Relativity software to narrow the universe of  
3 responsive records, and also thread emails to avoid producing duplicative records.  
4 Defendants also asked Plaintiff to propose additional search terms to facilitate the  
5 use of the Relativity software. Attached hereto as Exhibit L is a true and correct  
6 copy of Defendants' May 25, 2023 email.

7       16. On June 1 2023, I sent Defendants' counsel a letter responding to  
8 Defendants' May 25, 2023 email. Among other things, the letter indicated that  
9 Plaintiff intended to seek a Status Conference with the Court to address the delays  
10 in Defendants' search for and production of responsive records. The letter also  
11 provided Defendants revised search terms and locations to conduct additional  
12 searches for records responsive to Request Nos. 4-9. Attached hereto as Exhibit M  
13 is a true and correct copy of Plaintiff's June 1, 2023 letter.

14       17. On June 6, 2023, Defendants' counsel Jason Axe sent me an email in  
15 response to Plaintiff's June 1, 2023 letter. Mr. Axe stated in the email that "[m]y  
16 agency contacts are reviewing it, and we will get back to you with a detailed  
17 response." He also represented that Defendants did not believe a Status  
18 Conference was necessary at that time because "ICE has not **refused** to conduct  
19 any searches." (Emphasis in original). Attached hereto as Exhibit N is a true and  
20 correct copy of Defendants' June 1, 2023 email.

21       18. On June 9, 2023, Defendants' counsel Jason Axe sent me another  
22 email in response to Plaintiffs' June 1, 2023 letter. Among other things, he  
23 proposed alternative search terms and raised issues regarding Plaintiff's proposed  
24 search locations at to Parts 4-9. Attached hereto as Exhibit O is a true and correct  
25 copy of Defendants' June 9, 2023 email.

26       19. On June 9, 2023, I sent an email to the Court's Chambers to seek a  
27 Status Conference to address Defendants' delay in searching for and producing  
28 records, including as to Parts 4-9. I copied Defendants' counsel Jason Axe on that

1 email. Mr. Axe responded with an email to Chambers objecting to Plaintiff's  
2 request for a Status Conference as "unnecessary," because "Defendants here have  
3 worked, and are continuing to work, with Plaintiff to reach an agreement as to  
4 search terms that can be utilized to resolve Plaintiff's issues." Attached hereto as  
5 Exhibit P is a true and correct copy of Plaintiffs' June 9, 2023 email to the Court's  
6 Chambers, and Defendants' response email.

7       20. On June 10, 2023, almost immediately after sending its response to  
8 the Court's chambers regarding Defendants' opposition to a Status Conference,  
9 Defendants' counsel Mr. Axe emailed me to request a time to engage in a Local  
10 Rule 7-3 meet and confer discussion regarding Defendant's anticipated Rule 12(c)  
11 motion. Mr. Axe explained that the motion would "challenge the requests  
12 themselves," and seek to obtain a ruling from the Court as to "whether the  
13 requests, as they were presented to Defendants, are too vague and overbroad to  
14 reasonably describe the records sought." Attached hereto as Exhibit Q is a true and  
15 correct copy of Mr. Axe's June 10, 2023 email.

16       21. On June 12, 2023, I sent a letter to Defendants' counsel responding to  
17 Defendants' June 9, 2023 email in which ICE proposed alternative search terms  
18 and restrictions on search locations. Among other things, in the letter Plaintiff's  
19 proposed refined search terms and locations for ICE's search for Parts 4-9.  
20 Attached hereto as Exhibit R is a true and correct copy of Plaintiff's June 12, 2023  
21 letter.

22       22. On June 21, 2023, my co-counsel and I participated in a Local Rule 7-  
23 3 video conference with Defense counsel Mr. Axe and Mr. Tursi to discuss their  
24 anticipated Rule 12(c) motion. At that conference Mr. Tursi represented that they  
25 would be moving to establish that only Parts 4-9 were "vague" and "overbroad,"  
26 but not Parts 1-3.

27       23. On June 22, 2023, Defendants' counsel Mr. Tursi sent me a letter  
28 responding to Plaintiff's June 12, 2023 letter. Among other things, he responded to

1 Plaintiff's proposed search terms and locations. Attached hereto as Exhibit S is a  
2 true and correct copy of Mr. Tursi's June 22, 2023 letter.

3       24. On June 23, 2023, I sent Defendants' counsel an email regarding  
4 Defendant's anticipated Rule 12(c) motion, and Plaintiff's intention to file extrinsic  
5 evidence under Rule 12(d) in opposition to the Motion. Attached hereto as Exhibit  
6 T is a true and correct copy of Plaintiff's June 23, 2023 email.

7       25. On June 26, 2023 I sent a letter to Defendants' counsel responding to  
8 their June 22, 2023 letter regarding ICE's proposals for search terms and locations  
9 regarding Parts 4-9. Attached hereto as Exhibit U is a true and correct copy of  
10 Plaintiffs' June 26, 2023 letter.

11       26. On June 30, 2023, the Parties submitted a Joint Status Report to the  
12 Court in advance of the July 5, 2023 Court Status Conference. Attached hereto as  
13 Exhibit V is a true and correct copy of that Joint Status Report.

14       27. On July 5, 2023, my co-counsel and I participated in a Court Status  
15 Conference, in which the Parties discussed Defendants' forthcoming Rule 12(c)  
16 motion. At that Conference Defendants represented, contrary to their position at  
17 the Parties' Rule 7-3 conference, that their motion would challenge not only Parts  
18 4-9, but also Parts 1-3.

19       28. On July 11, 2023, Defendants' counsel Mr. Tursi sent me a letter in  
20 response to Plaintiffs' June 26, 2023 letter, in which Defendants responded to  
21 Plaintiffs' proposed search terms and locations. Attached hereto as Exhibit W is a  
22 true and correct copy of Mr. Tursi's July 11, 2023 letter.

23       29. On July 12, 2023 I sent a letter to Defendants' counsel responding to  
24 their July 11, 2023 letter regarding ICE's proposals for search terms and locations  
25 regarding Parts 4-9. Attached hereto as Exhibit X is a true and correct copy of  
26 Plaintiff's July 12, 2023 letter.

27       30. On July 13, 2023, my co-counsel and I participated in a further Court  
28 Status Conference on behalf of Plaintiff. At the Status Conference, Defendants'

1 counsel Mr. Axe represented, among other things, that ICE had commenced a  
2 search in response to Part 4 of the FOIA Request using Plaintiff's proposed search  
3 terms and locations.

4           31. As of this date, Plaintiff has received no documents responsive to  
5 Parts 4-9 of its FOIA request from Defendants.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

10 || Executed on July 25, 2023, at Oaxaca, Mexico.

/s/ Laboni Hoq  
Laboni A. Hoq